

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Stanley Gratz, 1042 Corn Crib Drive, Huntingdon VY, 19006

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

David Annecharico, Pa. ID No. 91122, Sand & Saidel, PC, 113 S.
21st Street, Philadelphia PA 19103

DEFENDANTS

KVT-TECH, INC., 110 Terry Drive, Suite 200, Newtown, PA 19040

County of Residence of First Listed Defendant Bucks
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity.)
FAIR LABOR STANDARDS ACT OF 1938, 29 U.S.C. § 201, et. seq. (FLSA)

Brief description of cause:

Failure to Pay Overtime Wages

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE 7/13/11 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

JUL 13 2011

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

11-cv-4472

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Stanley Gratz, 1042 Corn Crib Drive, Huntingdon VY, 19006

Address of Defendant: KVK-TECH, INC., 110 Terry Drive Suite 200 Newtown, PA 19040

Place of Accident, Incident or Transaction: 110 Terry Drive Suite 200 Newtown, PA 19040

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) UNKNOWN Yes ☐ No ☐

Does this case involve multidistrict litigation possibilities? UNKNOWN Yes ☐ No ☐

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases

11. ☒ All other Federal Question Cases Fair Labor Standards Act of 1938, 29 U.S.C. § 201, et. seq. ("FLSA")
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability Asbestos
9. ☐ All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

- I, _____, counsel of record do hereby certify:
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

JUL 13 2011

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 7/13/11

Attorney-at-Law

Attorney I.D.#

MAM

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Grotz

v.

Luk - Teds

CIVIL ACTION

NO.

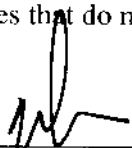
11-CV-4472

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

7/13/11
Date


Attorney-at-law

Stanley Grotz
Attorney for

215-851-0200, 3327
Telephone

215-851-0200
FAX Number

dannecharis@sondsatel.com
E-Mail Address

MAM
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STANLEY GRATZ, on behalf of himself and
all others similarly situated,

PLAINTIFF,

v.

KVK-TECH, INC.

DEFENDANT

Civil Action No. 11-cv-4472
Judge _____

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Nature of the Action, Jurisdiction and Venue

1. This is an individual and class action under the FAIR LABOR STANDARDS ACT OF 1938, 29 USC § 201, et. seq. ("FLSA") to recover damages for non-payment of overtime wages to Plaintiff and all others similarly situated.
2. Jurisdiction of this court is invoked pursuant to 28 USC § 1331. This action is authorized and instituted pursuant to the FLSA.
3. The actions and policies alleged to be unlawful were committed, among other places, in and around 110 Terry Drive Suite 200 Newtown, PA 19040, where Plaintiff lives and worked for Defendant, and where Defendant operates as a manufacturer of generic pharmaceuticals and, therefore, this action is within the jurisdiction of the United States District Court for the Eastern District of Pennsylvania. Venue is proper.
4. Plaintiff Stanley Gratz (hereinafter referred to as "Plaintiff" or "Gratz") has resided at all relevant times at 1042 Corn Crib Drive, Huntingdon Vy, 19006. Plaintiff was employed by Defendant KVK-TECH, INC. on or about April 19, 2010 until on or about December 10, 2010.

5. Defendant KVK-TECH, INC. (hereinafter referred to as "Defendant" or "KVK") which manufactures generic pharmaceuticals is a Pennsylvania company with offices / outlets in Pennsylvania and maintains a registered office at 1769 Darrah St. Langhorne, PA 19047.
6. Defendant is an enterprise within the meaning of the FLSA.
7. Defendant has annual gross revenues in excess of \$500,000.00.
8. Defendant is an employer within the meaning of the FLSA.
9. Defendant is subject to the FLSA.
10. This dispute is subject to the jurisdiction of this Court; there is no valid arbitration agreement signed by Plaintiff to the contrary.

Background and Statement of Claims

11. Plaintiff worked for Defendant from on or about April 19, 2010 until on or about until on or about December 10, 2010.
12. Plaintiff worked as a Quality Assurance Associate.
13. Plaintiff's primary duty was reviewing documents for errors in format and content.
14. Defendant is a manufacturer of generic pharmaceuticals.
15. Defendant has a location in and around 110 Terry Drive Suite 200 Newtown, PA 19040.
16. Plaintiff was paid a gross salary of \$3,750.00 / month.
17. There are in excess of 100 employees in various offices throughout Defendant's operations who perform the same or similar duties and functions as Plaintiff Quality Assurance.

18. The other Quality Assurance Associates are also paid a salary, comparable to Plaintiff's, plus commissions.
19. Plaintiff normally worked approximately fifty (50) hours per week.
20. The other Quality Assurance Associates have also worked in excess of 40 hours in many work weeks.
21. Plaintiff did not make decisions relative to policy or practice and did not exercise independent discretion.
22. Plaintiff did not supervise two or more full-time employees.
23. Plaintiff was directly involved in production.
24. Plaintiff did not meet the administrative exemption, or any other exemption, under the FLSA.
25. Other Quality Assurance Associates do not make decisions relative to policy or practice and do not exercise independent discretion.
26. Other Quality Assurance Associates do not supervise two or more full-time employees.
27. Other Quality Assurance Associates are directly involved in production.
28. Other Quality Assurance Associates do not meet the administrative exemption, or any other exemption under the FLSA.
29. Plaintiff and other sales representatives are non-exempt under the FLSA.
30. Notwithstanding the fact Plaintiff was non-exempt and worked overtime, Plaintiff was paid nothing for the hours worked in excess of 40 hours in a work week.
31. Notwithstanding the fact that other Quality Assurance Associates are non-exempt and work overtime they are paid nothing for the hours worked in excess of 40 hours in a work/week.
32. The company requires its Quality Assurance Associates work overtime.

33. When Plaintiff began work for Defendant on April 19, 2010 there was no time clock or other documented means of recording time.
34. Defendant has never employed the use of a time clock or other documented means of recording time.
35. Management was aware of the overtime hours Plaintiff was working, even though there was not time recording system.
36. Management is also aware of the overtime hours worked by the other Quality Assurance Associates for the same reasons it knew about the overtime hours worked by Plaintiff.
37. Defendant has known since before Plaintiff's hiring that neither Plaintiff nor the other sales representatives are exempt.
38. Defendant has known since at the latest December 10, 2010 that it has been in violation of the FLSA and has acted in knowing and reckless disregard of the FLSA with respect to the classification and payment of Plaintiff and the other sales representatives for overtime.

Class Action Allegations

39. Plaintiff hereby incorporates Paragraphs 1 through 38 of his Complaint as though the same were more fully set forth at length herein.
40. This is a class of similarly situation non-exempt Quality Assurance Associates who have worked in excess of 40 hours in many work weeks since a yet ascertained moment that is no later than April 19, 2010 who are not paid overtime.

41. The class of similarly situated Quality Assurance Associates are entitled to payment of overtime since a yet ascertained moment at time-and-one-half their regular hourly rate of pay for hours worked in excess of 40 in work weeks.
42. Defendant's violations have been knowing and willful.
43. Prosecuting this case as a class action for similarly situation employees who have been unlawfully denied overtime wages will promote judicial efficiency and will best protect the interest of the class members.
44. There are in excess of 25 class members, and prosecuting cases individually would be duplicative and would detract from judicial efficiency.
45. There are no conflicts among the class members.
46. Counsel for the Representative Plaintiff, Sand & Sidel, P.C., are experienced in the field of wage and hour law, and class actions, and will fairly and competently represent the interest of the class members.

Count I: Fair Labor Standards Act (FLSA) – Overtime (Individual and Class)

47. Plaintiff hereby incorporates Paragraphs 1 through 46 of his Complaint as though the same were more fully set forth at length herein.
48. Plaintiff, and all other similarly situated Quality Assurance Associates are employees of Defendant within the meaning of FLSA.
49. Plaintiff, and all other similarly situated Quality Assurance Associates are non-exempt.
50. Plaintiff, and all other similarly situated Quality Assurance Associates are entitled to overtime at a rate of time-and-one-half their regular rate of pay for hours worked in excess of 40 hours in work weeks since a yet ascertained moment that is no later than April 19, 2010.

51. Plaintiff, and all other similarly situated Quality Assurance Associates have worked in excess of 40 hours in work weeks since a yet ascertained moment that is no later than April 19, 2010.
52. Defendant failed to pay overtime to Plaintiff, and all other similarly situated sales representatives, for hours worked in excess of 40 hours in work weeks since June 2006.
53. Defendant's failure to pay overtime has been knowing and willful.
54. Defendant's failure to pay overtime is a violation of the FLSA.

Prayer for Relief

55. WHEREFORE, Plaintiff respectfully requests that this Court:
- a. Order Defendant to make Plaintiff, and all others similarly situated whole, by paying overtime wages due; and
 - b. Order Defendant to pay interest, liquidated damages and applicable penalties on wages owed; and
 - c. Order Defendant to pay the costs and reasonable attorneys' fees incurred by Plaintiff; and
 - d. Grant such further relief as the Court deems necessary and proper.

Respectfully submitted,

SAND & SAIDEL, P.C.

BY: 

David Annecharico, Esquire

PA ID No. 91122

113 S. 21st St.

Philadelphia, PA 19103

dannecharico@sandsaidel.com

215-851-0200, ext. 3327 / 215-851-9990 (fax)

Dated: 7/13/11